

REMARKS

This responds to the Office Action mailed on October 18, 2006, and the references cited therewith.

Claims 1-27 are now pending in this application.

§103 Rejection of the Claims

Claims 1, 4-5, 8, 11-12, 15, 18-19, 21 and 24-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the SquareTrade website (as viewed on the WayBack Machine from May 5, 2000; hereinafter SquareTrade) in view of eBay (as viewed on the WayBack Machine from October 12, 1999 ; hereinafter eBay).

Applicants respectfully submit that claims 1, 4-5, 8, 11-12, 15, 18-19, 21 and 24-25 should not be rejected under 35 U.S.C. § 103 for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1 includes the following limitation:

updating a record associated with the party if the complaint is not resolved, the record indicating a count of failed transactions related to the party.

The Office Action, in rejecting claim 1, contends that the above limitation is taught or suggested by the following web page, in combination as illustrated in eBay:

eBay Help : Basics : FAQ : Feedback

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Put your pictures online with Kodak PhotoNet online.
Shop smarter! Now you can search in the Gallery!

Search tips

☐ Search titles and descriptions**Frequently Asked Questions about Feedback Forum:**

- Does a high Feedback Rating mean that an eBay member has a great reputation?
- What type of feedback should I leave—positive or negative?
- When should I leave feedback?
- Can any bidder leave feedback about a specific auction or just the winning bidder?
- Can I retract the feedback I left for someone?
- Can I leave feedback on a trade if the reserve was not met?
- My feedback score changed because someone who left me feedback is no longer a registered user. What does this mean?
- How do I know I have the correct item number when I leave feedback related to a transaction?

Still got a question?

Search for help on:

Find Help

(e.g., what is a Dutch Auction?)

If you can't find an answer to your question here, [Ask eBay](#).**Q. Does a high Feedback Rating mean that an eBay member has a great reputation?**

- A. Not necessarily. In most cases, a high Feedback Rating is good news, but you should always check a member's Feedback Profile for any negative remarks. It's best not to judge a user on his or her Feedback Rating alone.

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Q. What type of feedback should I leave—positive or negative?

- A. If you were treated well by a buyer or seller, reward him or her with a positive comment. If you were treated poorly, try to resolve the problem first by contacting the other person. Most problems can be corrected by improving communication between buyer and seller. If things are still not resolved, you may leave a negative comment.

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<http://web.archive.org/web/19991012230420/pages.ebay.com/help/basics/f-feedback.html> 10/5/2006

eBay, Page 1 of 3 (Page 3 as numbered by the Office Action).

The above illustrated web page from eBay includes a list of frequently asked questions, a “Feedback Rating” description and a description of positive and negative feedback. The list of questions includes eight questions, none of which describe a “count of failed transactions related to a party.” The “Feedback Rating” description provides information for interpreting the Feedback Rating. For example, the description states that a “Feedback Rating” does not necessarily mean that an eBay member has a great reputation. Indeed, the “Feedback Rating” description warns that a member’s Feedback Profile should be checked for negative remarks. The description does not describe a “count of failed transactions related to a party.” The description of positive and negative feedback describes the conditions where positive and

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negative feedback may be left for a buyer or a seller. Specifically, the description states that positive feedback may be left as a reward but negative feedback should only be left after attempting to resolve a problem. The description of positive and negative feedback description does not describe a “count of failed transactions related to a party.”

Claim 1 requires updating a record associated with a party if a complaint is not resolved, the record indicating a count of failed transactions related to the party. In contrast, the above web page from eBay clearly does not teach or suggest the stated requirements of claim 1. First, the above illustrated web page from eBay does not include text that describes a count of failed transactions related to a party. Rather, the above illustrated web page includes text for a list of frequently asked questions, a “Feedback Rating” description and a description of positive and negative feedback none of which describe a “count of failed transactions related to a party.” Second, the eBay illustrates a web page that includes text stating that only the *seller and successful bidder* can leave transaction-related feedback about a specific buy or sell transaction (Page 4 as numbered by the Office Action, second question). In other words, if only a *seller and successful bidder* can leave transaction related feedback, then the eBay requires a completed transaction before the seller or successful bidder may leave transaction related feedback. In contrast, claim 1 requires updating a record that indicates a count of failed transactions. Third, the eBay fails to describe a “record” or a “complaint,” much less “updating a record” if a complaint is not resolved.

One example advantage of the invention defined by claim 1 of the present application is to reduce the number of users failing to complete a transaction by maintaining a record indicating a count of failed transactions related to a user. For example, in one embodiment, if a count exceeds a threshold, the user may be suspended from participating in transactions (Application, Page 6, lines 12-15).

In summary, eBay cannot be said to teach or suggest the above quoted limitation of claim 1 because eBay requires that only a *successful bidder or seller* can leave transaction-related feedback about a specific buy or sell transaction and, further, fails to describe a “record” or a “complaint,” much less “updating a record” if a complaint is not resolved. In contrast, claim 1

requires updating a record associated with a party if a complaint is not resolved, the record indicating a count of failed transactions related to the party.

The above remarks are also applicable to a consideration of independent claims 8, 15, and 21.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 4-5, 11-12, 18-19 and 24-25 under 35 U.S.C. § 103 is also addressed by the above remarks.

Claims 2-3, 9-10, 16-17 and 22-23 were rejected under 35 USC § 103(a) as being unpatentable over SquareTrade in view of eBay, as applied to claims 1, 8, 15 and 21 above, and further in view of the article UAUTOBID ("UAUTOBID.com, Inc., Introduces the Capability to Purchase Specific Vehicles Online").

Claims 2-3 depend on independent claim 1. Claims 9-10 depend on independent claim 8. Claims 16-17 depend on independent claim 15. Claims 22-23 depend on independent claim 21. If an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 2-3, 9-10, 16-17 and 22-23 under 35 U.S.C. § 103 is also addressed by the above remarks.

Claims 6, 13, 20 and 26 were rejected under 35 USC § 103(a) as being unpatentable over SquareTrade in view of eBay as applied to claims 1, 8, 15 and 21 above, and further in view of Esposito (U.S. 6,587,838; hereinafter Esposito).

Claim 6 depends on independent claim 1. Claim 13 depends on independent claim 8. Claim 20 depends on independent claim 15. Claim 26 depends on independent claim 21. If an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 6, 13, 20 and 26 under 35 U.S.C. § 103 is also addressed by the above remarks.

In summary, SquareTrade in combination with eBay in combination with UAUTOBID in combination with Esposito does not teach or suggest each and every limitation of the independent claims 1, 8, 15, and 21 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103.

In summary, Applicants believe that all rejections presented in the Office Action have been fully addressed and withdrawal of these rejections is respectfully requested.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4046 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Office Action. Applicants' silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

Respectfully submitted,

LOU LEONARDO ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

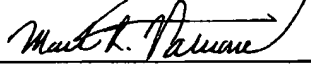
P.O. Box 2938

Minneapolis, MN 55402

408-278-4046

Date 1.18.2007

By



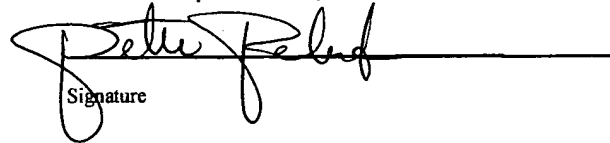
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Reg. No. 53,719

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 18 day of January 2007.

Peter Rebutroni

Name


Signature